

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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|---|---|--------------------------|
| DWAYNE MORRIS, an individual, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CIV-2019-1157-G |
| |) | |
| AIRBNB, INC., a California Corporation with |) | |
| its offices located in San Francisco, and |) | |
| JOHN DOE, an entity operating under the |) | |
| name of Global Community Travel, a |) | |
| Tennessee Corporation with its office located |) | |
| in Nashville, |) | |
| |) | |
| Defendants. |) | |

**NOTICE OF REMOVAL TO THE UNITED STATES
DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA**

**TO: The Honorable Judges of the
United States District for the
Western District of Oklahoma:**

Background

1. On or about November 1, 2019, Plaintiff Dwayne Morris filed the action entitled *Dwayne Morris v. Airbnb, Inc., a California Corporation with its offices located in San Francisco, and John Doe, an entity operating under the name of Global Community Travel, a Tennessee Corporation with its office located in Nashville*, Case No. CJ-2019-6252 in the District Court of Oklahoma County, Oklahoma. Plaintiff filed an Amended Petition on November 12, 2019.

2. The Amended Petition asserts the following causes of action: breach of contract, “lottery,” violation of Consumer Protection Act and racial discrimination. Amended Petition, at 8, Ex. 2.

3. Pursuant to 28 U.S.C. §1446 and Local Civil Rule 81.2, a copy of the following documents filed in the State Court action are attached hereto: Exhibit 1 – the Petition, Exhibit 2 – Amended Petition, Exhibit 3 - a copy of the State Court docket sheet, and Exhibit 4 – Notice of Filing Notice of Removal (to be filed in Oklahoma County District Court).

Timeliness of Removal

4. The removal is timely under 28 U.S.C. §1446 in that it is filed within thirty (30) days of service on Defendant.

Removal Jurisdiction

5. This Court has jurisdiction over the removed action pursuant to 28 U.S.C. §§ 1132 and 1441(b). The claims could have been originally filed in this Court pursuant to 28 U.S.C. § 1332, as this Court has original jurisdiction over all civil actions where the matter in controversy allegedly exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different States. As a result, diversity jurisdiction exists.

6. Diversity. As alleged in the Petition, Plaintiff is an Oklahoma resident. As alleged in the Petition, Defendant Airbnb is organized under the laws of the State of California, and therefore, is a resident of California for purposes of diversity. Upon information and belief, and upon review of the docket in the State Court Action, Defendant John Doe has not been served with the Petition/Amended Petition and Summons and therefore, consent to removal is not required. *See* 28 U.S.C. § 1446(b)(2)(A).

7. Amount in Controversy. The Tenth Circuit adheres to the “‘either viewpoint rule’ which considers either the value to the plaintiff or the cost to defendant of injunctive

and declaratory relief as the measure of the amount in controversy for purposes of meeting the jurisdictional minimum.” *Lovell v. State Farm Mut. Auto. Ins. Co.*, 466 F.3d 893, 897 (10th Cir. 2006); *see also* Smith v. Adams, 130 U.S. 167, 175 (1889) (“It is conceded that the pecuniary value of the matter in dispute may be determined ... by the increased or diminished value of the property directly affected by the relief prayed, or by the pecuniary result to one of the parties immediately from the judgment.”). Plaintiff seeks specific performance, which he values “at a minimum of \$100,000.” Amended Petition, ¶ 31 at 5, Ex. 2. The amount in controversy is satisfied.

8. Accordingly, this is a civil action where there is complete diversity of citizenship and the amount in controversy (excluding interest and costs), is in excess of \$75,000.

9. Removal is therefore permitted under 28 U.S.C. §§ 1441 and 1446.

10. Pursuant to 28 U.S.C. §1441(a), venue in this district is proper because Plaintiff filed this action that is currently pending in the District Court in and for Oklahoma County, State of Oklahoma, a court sitting within the United States District Court for the Western District of Oklahoma

Notice to State Court and Plaintiff

11. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of the Notice of Removal will be promptly served on all parties, and a copy will be promptly filed with the District Court in and for Oklahoma County, State of Oklahoma. A copy of the Notice of Filing Notice of Removal that will be promptly served on all parties and filed with the

District Court in and for Oklahoma County, State of Oklahoma is attached hereto as Exhibit 4.

12. Nothing in this Notice shall be interpreted as a waiver or relinquishment of Airbnb's right to assert any defense or affirmative matter, including without limitation a motion to dismiss pursuant to Federal Rule of Civil Procedure 12.

WHEREFORE, Defendant, Airbnb, Inc., gives notice that the above-referenced action, now pending in the District Court of Oklahoma City, State of Oklahoma, is hereby removed to this Court.

Respectfully submitted,

s/ Courtney D. Powell

Shannon F. Davies, OBA No. 13565

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Removal was submitted electronically on this 12th day of December, 2019, to the Court Clerk's new cases email address (newcases@okwd.uscourts.gov) for filing.

I further certify that service was made on the following counsel of record by placing copies of the foregoing document in envelopes properly addressed to them and with sufficient first-class postage, pre-paid:

Edward F. Saheb
Law Offices of Edward F. Saheb & Associates
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Moore, Oklahoma 73160
Attorney for Plaintiff, Dwayne Morris

s/ Courtney D. Powell

Courtney D. Powell